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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,950	06/01/2000	THOMAS E. GESTER	DSI-10002/22	5698

7590

09/04/2002

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EXAMINER

JOHNS, ANDREW W

ART UNIT

PAPER NUMBER

2621

DATE MAILED: 09/04/2002

5

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/462,950

Applicant(s)

GESTER ET AL.

Examiner

Andrew W. Johns

Art Unit

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. This application does not contain an abstract of the disclosure as required by 37 C.F.R. § 1.72(b). An abstract on a separate sheet is required.

5 2. The disclosure is objected to because of the following informalities: Appendix A, on pages 10-15 of the specification is object to as failing to comply with 37 C.F.R. § 1.58(a) because drawings are not permitted in the specification. If these figures are essential to the disclosure of the invention, applicant should submit additional drawing sheets to incorporate these figures. Also the specification should be amended to cancel the Appendix, and to include  
10 appropriate references to the new submitted drawings.

Appropriate correction is required.

3. The numbering of claims is not in accordance with 37 C.F.R. § 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they  
15 must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

This application was filed with claims numbered 1, 5-9 and 11-13, in accordance with the amendments filed during the examination of the International Application. Claims 5-9 have been renumbered as 2-6, respectively, while claims 11-13 have been renumbered as claims 7-9, respectively. In addition, the dependency of claims 7 and 8 (renumbered as 4 and 5) have also be  
20 modified to reflect the new numbering. In order to minimize confusion and to prevent errors, applicant should use this new numbering in all future correspondence.

*Allowable Subject Matter*

4. Claims 1-9 are allowed.

5. The following is a statement of reasons for the indication of allowable subject matter:

None of the prior art teaches or suggests key features of the claimed invention. Specifically,  
5 claim 1 requires, in part, a computer processing unit that performs at least one of the functions of  
counting crystals, generating three-dimensional surface plots of crystals within a database, or  
determining crystal size by determination of the length of the crystal perimeter. Claim 3  
requires, in part, a T-squared filter to identify at least one crystal. Claim 11 requires, in part, an  
optical fiber extending between a light source and the crystal. Claims 13 requires, in part, the  
10 simulation of edges of crystals missing from the image generated by the camera. The prior art  
fails to teach or suggest any of these features, in combination with the other limitations of the  
claimed invention.

*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's  
15 disclosure. The cited references were cited and relied upon in the International application.

7. This application is in condition for allowance except for the following formal matters:

The specification has been objected to for failing to include an abstract, and for including  
drawings in the appendix, as pointed out more fully above.

Prosecution on the merits is closed in accordance with the practice under *Ex parte*  
20 *Quayle*, 1935 C.D. 11, 453 O.G. 213.

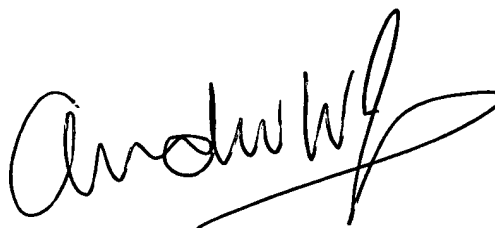
A shortened statutory period for reply to this action is set to expire **TWO MONTHS**  
from the mailing date of this letter.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Johns whose telephone number is (703) 305-4788. The examiner is normally available Monday through Friday, at least during the hours of 9:00 am to 3:00 pm Eastern Time. The examiner may also be contacted by e-mail using the address: andrew.johns@uspto.gov. (Applicant is reminded of the Office policy regarding e-mail communications. See M.P.E.P. § 502.03)

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leo Boudreau, can be reached on (703) 305-4706. The fax phone number for this art unit is (703) 872-9314. In order to ensure prompt delivery to the examiner, all unofficial communications should be clearly labeled as "Draft" or "Unofficial."

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center Customer Service Office whose telephone number is (703) 306-0377.

A. Johns  
26 August 2002



**ANDREW W. JOHNS**  
**PRIMARY EXAMINER**